

E-FILING

MELINDA HAAG (CABN 132612)
United States Attorney

Attorney for Plaintiff

FILED

2011 JAN 18 P 2:38

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
SAN JOSE, CA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

BRIAN MURPHY,

Defendant.

CR 11 No.

00029

DLJ

VIOLATIONS: 18 U.S.C. § 1832(a)(3) -
Possession of Stolen Trade Secrets; 18
U.S.C. § 1834 - Criminal Forfeiture

SAN JOSE VENUE

HRL

INFORMATION

The United States Attorney charges:

Introduction

1. At all times relevant to this Indictment:

a. KLA Tencor Corporation ("KT") was a Milpitas, California corporation that was in the business of providing process control and yield management for semiconductor and related microelectronic companies.

b. KT provided products, software, analysis, and services that assisted in the manufacture of semiconductors. KT products were sold throughout the United States and internationally. One of these products was the KT 2139 system, a wafer inspection tool that used highly magnified light optics and sophisticated algorithms to detect flaws on silicon wafers that

U.S. v. MURPHY
INFORMATION

1 were being manufactured into processors and memory chips. KT offered its customers support,
2 maintenance, and warranty services for its tools.

3 c. KT maintained a business unit known as KT Certified Products Group ("KT
4 Certified") that specialized in asset management, the delivery of refurbished and tested KT tools,
5 and the maintenance and service of KT equipment.

6 d. KT developed and used an internal, company-wide quality control system called
7 "eQuality" to document procedures and tool performance data during manufacturing. KT
8 documented its confidential, specialized refurbishment process in the eQuality system.

9 2. On or about November 17, 1997, KT hired defendant BRIAN MURPHY. In
10 2006, MURPHY was promoted to a Senior Director of Operations for KT Certified. On
11 February 10, 2009, MURPHY was formally notified that his employment with KT Certified
12 would terminate in April 2009. On April 13, 2009, MURPHY's employment with KT Certified
13 was terminated. Upon termination of his employment, MURPHY certified that he had returned
14 all confidential and proprietary KT information in his possession.

15 3. In January 2009, while still employed by KT, MURPHY formed his own
16 company called Inspecstar, which was engaged in the business of maintaining and servicing KT
17 equipment. Inspecstar competed with KT Certified.

18 Downloading and Copying of Proprietary Information

19 4. KT assigned MURPHY a Dell D630 laptop to assist him in his duties as a Senior
20 Director of Operations. On January 15, 19, and 21, and February 7, 2009, MURPHY used this
21 Dell laptop to download approximately 8,800 files from KT's computer network. Many of these
22 files contained confidential and proprietary KT information, such as eQuality checklists, service
23 and maintenance procedures, vendor scorecards, customer lists, customer service information,
24 and expense and pricing information.

25 5. In early February 2009, MURPHY used the Dell laptop to copy to some type of
26 storage media many of these files. MURPHY then installed a data deletion program known as
27 "Evidence Eliminator" to delete and conceal traces of computer and user activity. MURPHY
28 continued to possess this KT trade secret information after his employment with KT was

1 terminated and he certified that he had returned all KT confidential and proprietary information
2 in his possession.

3 COUNT ONE: (18 U.S.C. § 1832(a)(3) – Possession of Stolen Trade Secrets)

4 6. Paragraphs One through Five are realleged and incorporated as if fully set forth
5 here.

6 7. In or about April 2009, in the Northern District of California and elsewhere, the
7 defendant,

8 BRIAN MURPHY,


9 with intent to convert a trade secret, specifically the eQuality checklist used for the maintenance,
10 upgrade, repair, and refurbishment of the KT 2139 system, to the economic benefit of someone
11 other than the owner thereof, where such trade secret was related to and included in a product
12 that was produced for and placed in interstate and foreign commerce, did possess such
13 information, knowing such information to have been stolen or appropriated, obtained, or
14 converted without authorization, and intending and knowing that his possession and theft would
15 injure KT.

16 All in violation of Title 18, United States Code, Section 1832(a)(3).

17
18 Dated: 1/18/11

MELINDA HAAG
United States Attorney

20
21 
22 MATTHEW A. PARRELLA
Chief, CHIP Unit

23 (Approved as to form: 
24 AUSA HANLEY CHEW
25
26
27
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AO 257 (Rev. 6/78)

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT
 BY: ☐ COMPLAINT ☒ INFORMATION ☐ INDICTMENT
☐ SUPERSEDING
OFFENSE CHARGED

18 U.S.C. 1832(a)(3) - Possession of Stolen Trade Secrets

☐ Petty
☐ Minor
☐ Misdemeanor
☒ Felony
PENALTY:
 10 year term of imprisonment
 \$250,000 or twice the amount involved in the offense
 3 year period of supervised release
 \$100 mandatory special assessment
PROCEEDING
 Name of Complainant Agency, or Person (& Title, if any)
 FBI Special Agent Michael Carmona

☐ person is awaiting trial in another Federal or State Court, give name of court

☐ this person/proceeding is transferred from another district per (circle one) FRCrP 20, 21 or 40. Show District

☐ this is a reprosecution of charges previously dismissed which were dismissed on motion of:

☐ U.S. Att'y ☐ Defense

☐ this prosecution relates to a pending case involving this same defendant

☐ prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

SHOW DOCKET NO.

MAGISTRATE CASE NO.

 Name and Office of Person
 Furnishing Information on
 THIS FORM

Melinda Haag

☒ U.S. Att'y ☐ Other U.S. Agency

 Name of Asst. U.S. Att'y
 (if assigned)

Hanley Chew

 Name of District Court, and/or Judge/Magistrate Location
 NORTHERN DISTRICT OF CALIFORNIA

DEFENDANT - U.S.

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BRIAN MURPHY

DISTRICT COURT NUMBER

CR11 00029

DEFENDANT

DLJ

IS NOT IN CUSTODY

- 1) ☐ Has not been arrested, pending outcome this proceeding. If not detained give date any prior summons was served on above charges
- 2) ☐ Is a Fugitive
- 3) ☐ Is on Bail or Release from (show District)

HRL

IS IN CUSTODY

- 4) ☐ On this charge
- 5) ☐ On another conviction
- 6) ☐ Awaiting trial on other charges

☐ Fed'l ☐ State

If answer to (6) is "Yes", show name of institution

 Has detainer
 been filed?

☐ Yes
☐ No

 If "Yes"
 give date
 filed

 DATE OF
 ARREST

Month/Day/Year

Or... If Arresting Agency & Warrant were not

 DATE TRANSFERRED
 TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted
ADDITIONAL INFORMATION OR COMMENTS**PROCESS:**
☐ SUMMONS ☒ NO PROCESS*

☐ WARRANT Ball Amount:

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address:

*Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time:

Before Judge:

Comments: